

(PRE-FILED)

By: **Delegates Ramirez and Parker**
Requested: August 11, 2003
Introduced and read first time: January 14, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Criminal Street Gangs - Participation and Recruitment**

3 FOR the purpose of prohibiting a person from participating actively in a criminal
4 street gang with knowledge that the gang members engage in certain criminal
5 activity; prohibiting a person from promoting, furthering, or assisting in certain
6 criminal conduct by gang members; prohibiting a person from soliciting or
7 recruiting another to participate actively in a gang with the intent that the
8 person solicited or recruited participate in or promote, further, or assist in
9 certain criminal conduct; prohibiting a person from threatening another with
10 physical violence with the intent to coerce, induce, or solicit the other to
11 participate actively in a gang; prohibiting a person from using physical violence
12 to coerce, induce, or solicit another to participate actively in, or to prevent
13 another from leaving a gang; establishing certain penalties for certain violations
14 of this Act; declaring the findings and the intent of the General Assembly;
15 defining certain terms; providing for the application of this Act; and generally
16 relating to criminal street gangs.

17 BY adding to
18 Article - Criminal Law
19 Section 9-801 through 9-808, inclusive, to be under the new subtitle "Subtitle 8.
20 Criminal Street Gangs"
21 Annotated Code of Maryland
22 (2002 Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Criminal Law**

2 SUBTITLE 8. CRIMINAL STREET GANGS.

3 9-801.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) "COERCE" MEANS TO COMPEL OR ATTEMPT TO COMPEL ANOTHER BY
7 THREAT OF HARM OR OTHER ADVERSE CONSEQUENCES.8 (C) "CRIMINAL STREET GANG" OR "GANG" MEANS AN INFORMAL OR FORMAL
9 ONGOING ORGANIZATION, ASSOCIATION, OR GROUP OF FIVE OR MORE INDIVIDUALS
10 THAT:11 (1) HAS AS ONE OF ITS PRIMARY ACTIVITIES, THE COMMISSION OF ONE
12 OR MORE OF THE CRIMES LISTED IN SUBSECTION (D) OF THIS SECTION;13 (2) IS COLLECTIVELY KNOWN BY A COMMON NAME OR COMMON
14 IDENTIFYING SIGN OR SYMBOL; AND15 (3) HAS MEMBERS WHO INDIVIDUALLY OR COLLECTIVELY ENGAGE IN
16 OR HAVE ENGAGED IN A PATTERN OF GANG ACTIVITY.17 (D) "PATTERN OF GANG ACTIVITY" MEANS THE COMMISSION OF, ATTEMPTED
18 COMMISSION OF, SOLICITATION OF, CONSPIRACY TO COMMIT, OR CONVICTION OF
19 TWO OR MORE OF THE FOLLOWING CRIMES:

20 (1) A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THIS ARTICLE;

21 (2) A CONTROLLED DANGEROUS SUBSTANCE CRIME UNDER § 5-601 OR §
22 5-602 OF THIS ARTICLE;23 (3) USE OF A FIREARM, AS DEFINED IN § 6-201 OF THIS ARTICLE, IN THE
24 COMMISSION OF A FELONY OR OTHER CRIME OF VIOLENCE, AS DEFINED IN § 14-101
25 OF THIS ARTICLE;26 (4) THE INTIMIDATION OF A WITNESS OR VICTIM UNDER § 9-302, § 9-303,
27 OR § 9-305 OF THIS TITLE;28 (5) THEFT OF PROPERTY WITH A VALUE OF \$500 OR MORE UNDER § 7-104
29 OR § 7-105 OF THIS ARTICLE;30 (6) BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE UNDER §
31 6-202, § 6-203, OR § 6-204 OF THIS ARTICLE;

32 (7) MONEY LAUNDERING UNDER 18 U.S.C. § 1956;

33 (8) TORTURE, AS DEFINED IN § 3-812 OF THE COURTS ARTICLE;

1 (9) FELONY EXTORTION UNDER § 3-701 OF THIS ARTICLE;

2 (10) MALICIOUS DESTRUCTION OF PROPERTY WITH VALUE OF AT LEAST
3 \$500 UNDER § 6-301 OF THIS ARTICLE;

4 (11) POSSESSION OF OR THE SALE, RENTAL, OR TRANSFER OF A FIREARM
5 UNDER § 5-133, § 5-134, OR § 5-136 OF THE PUBLIC SAFETY ARTICLE;

6 (12) STALKING UNDER § 3-802 OF THIS ARTICLE; OR

7 (13) PROSTITUTION UNDER § 11-303, § 11-304, § 11-305, OR § 11-306 OF THIS
8 ARTICLE.

9 (E) "PROMOTE" MEANS TO ENCOURAGE OR INDUCE ANOTHER.

10 (F) "SOLICIT" MEANS TO REQUEST OR COMMAND ANOTHER.

11 9-802.

12 (A) THE GENERAL ASSEMBLY FINDS THAT IT IS THE RIGHT OF AN
13 INDIVIDUAL, REGARDLESS OF RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN,
14 GENDER, AGE, SEXUAL ORIENTATION, OR DISABILITY, TO BE SECURE AND
15 PROTECTED FROM FEAR, INTIMIDATION, AND PHYSICAL HARM CAUSED BY THE
16 ACTIVITIES OF VIOLENT GROUPS AND INDIVIDUALS.

17 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ENFORCEMENT OF
18 THIS SUBTITLE WILL ERADICATE CRIMINAL ACTIVITY BY CRIMINAL STREET GANGS
19 BY FOCUSING ON PATTERNS OF GANG ACTIVITY AND THE ORGANIZED NATURE OF
20 GANGS, WHICH TOGETHER, ARE THE CHIEF SOURCES OF TERROR CREATED BY
21 CRIMINAL STREET GANGS.

22 9-803.

23 (A) THIS SUBTITLE MAY NOT INTERFERE WITH THE EXERCISE OF AN
24 INDIVIDUAL'S CONSTITUTIONALLY PROTECTED RIGHTS OF FREEDOM OF
25 EXPRESSION AND ASSOCIATION.

26 (B) THIS SUBTITLE APPLIES TO THE COMMISSION OF, ATTEMPTED
27 COMMISSION OF, SOLICITATION OF, CONSPIRACY TO COMMIT, OR CONVICTION OF
28 TWO OR MORE OF THE CRIMES LISTED IN § 9-801(D) OF THIS SUBTITLE IF:

29 (1) AT LEAST ONE OF THESE CRIMES OCCURRED ON OR AFTER OCTOBER
30 1, 2004;

31 (2) THE LAST CRIME OCCURRED WITHIN 3 YEARS AFTER A PRIOR CRIME;
32 AND

33 (3) EACH CRIME WAS COMMITTED ON A SEPARATE OCCASION OR BY
34 TWO OR MORE PERSONS.

1 9-804.

2 (A) A PERSON MAY NOT:

3 (1) ACTIVELY PARTICIPATE IN A CRIMINAL STREET GANG KNOWING
4 THAT THE GANG MEMBERS ENGAGE IN A PATTERN OF GANG ACTIVITY; AND

5 (2) WILLFULLY PROMOTE, FURTHER, OR ASSIST IN THE COMMISSION OF
6 A FELONY BY A GANG MEMBER.

7 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
8 AND ON CONVICTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN
9 5 YEARS AND NOT EXCEEDING 10 YEARS.

10 (2) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT
11 IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.

12 (3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY
13 MINIMUM SENTENCE OF 5 YEARS.

14 9-805.

15 (A) A PERSON MAY NOT SOLICIT OR RECRUIT ANOTHER TO PARTICIPATE
16 ACTIVELY IN A CRIMINAL STREET GANG WITH THE INTENT THAT THE PERSON
17 SOLICITED OR RECRUITED:

18 (1) ACTIVELY PARTICIPATE IN A PATTERN OF GANG ACTIVITY; OR

19 (2) PROMOTE, FURTHER, OR ASSIST IN THE COMMISSION OF A FELONY
20 BY A GANG MEMBER.

21 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
22 AND ON CONVICTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN
23 5 YEARS AND NOT EXCEEDING 10 YEARS.

24 (2) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT
25 IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.

26 (3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY
27 MINIMUM SENTENCE OF 5 YEARS.

28 9-806.

29 (A) A PERSON MAY NOT THREATEN ANOTHER WITH PHYSICAL VIOLENCE ON
30 TWO OR MORE OCCASIONS WITHIN A 30-DAY PERIOD WITH THE INTENT TO COERCE,
31 INDUCE, OR SOLICIT THE OTHER TO PARTICIPATE ACTIVELY IN A CRIMINAL STREET
32 GANG.

33 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
34 AND ON CONVICTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN
35 2 YEARS AND NOT EXCEEDING 4 YEARS.

1 (2) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT
2 IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 2 YEARS.

3 (3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY
4 MINIMUM SENTENCE OF 2 YEARS.

5 9-807.

6 (A) A PERSON MAY NOT USE PHYSICAL VIOLENCE TO:

7 (1) COERCE, INDUCE, OR SOLICIT ANOTHER TO PARTICIPATE ACTIVELY
8 IN A CRIMINAL STREET GANG; OR

9 (2) PREVENT ANOTHER FROM LEAVING A GANG.

10 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
11 AND ON CONVICTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN
12 3 YEARS AND NOT EXCEEDING 5 YEARS.

13 (2) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT
14 IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 3 YEARS.

15 (3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY
16 MINIMUM SENTENCE OF 3 YEARS.

17 9-808.

18 (A) A PERSON MAY NOT COMMIT A VIOLATION OF § 9-805, § 9-806, OR § 9-807 OF
19 THIS SUBTITLE AGAINST AN INDIVIDUAL WHO IS A MINOR.

20 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
21 AND ON CONVICTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN
22 3 YEARS.

23 (2) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT
24 IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 3 YEARS.

25 (3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY
26 MINIMUM SENTENCE OF 3 YEARS.

27 (4) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE
28 CONSECUTIVE TO AND NOT CONCURRENT WITH ANY OTHER SENTENCE IMPOSED
29 FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS
30 SECTION.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
32 construed to limit prosecution for a violation of any other provision of law with respect
33 to any activity that constitutes a violation of this Act.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2004.

